

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

TYSON FOODS, INC., and TYSON FRESH  
MEATS, INC.

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 19 :4020

**COMPLAINT**

Plaintiffs Tyson Foods, Inc., and Tyson Fresh Meats, Inc., for their Complaint against Defendant United States of America (“United States”), pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 1346(b) and 28 U.S.C. § 2671 et seq., allege and state as follows:

**JURISDICTION AND VENUE**

1. Tyson Foods, Inc. is a corporation, formed under the laws of Delaware, with its principal place of business located in Springdale, Arkansas. Tyson Fresh Meats, Inc. is a Delaware entity and is a wholly-owned subsidiary of Tyson Foods, Inc. (Tyson and Tyson Fresh Meats are hereinafter referred to as “Tyson”).

2. The United States of America is a sovereign state. Liability for the acts described herein is based on actions of agents and employees of the United States Department of Agriculture (“USDA”) and its Food Safety Inspection Service (“FSIS”), agencies of the United States, for which sovereign immunity is waived under the Federal Tort Claims Act, 28 U.S.C. § 1346(b) and § 2671

et seq. (“FTCA”).

3. This Court may properly exercise original jurisdiction over the parties and the subject matter of this action pursuant to 28 U.S.C. § 1346(b)(1), 28 U.S.C. § 1331, and 28 U.S.C. § 2674.

4. Venue is properly laid in the Northern District of Iowa, Western Division, pursuant to 28 U.S.C. § 1402(b). The events and acts complained of and which give rise to this action occurred within this District and Tyson does business in this District.

5. Iowa law applies to this action.

6. Tyson Foods, Inc., has exhausted the administrative requirements set forth in 28 U.S.C. § 2675, by submitting Form SF-95, Claim for Damage, Injury, or Death, to the USDA-FSIS, 4520 114<sup>th</sup> Street, Des Moines, IA 50322, on or about August 23, 2018. The SF-95 submitted by Tyson Foods, Inc. provided the Defendant with all of the information needed to investigate and resolve Plaintiffs’ claim for damages. The SF-95 submitted to USDA-FSIS fully described the basis for Plaintiffs’ claim, identified the claimants, and provided a sum certain quantifying the damages suffered as a result of Defendant’s tortious misconduct. On or about November 16, 2018, the Office of General Counsel for USDA notified Tyson Foods, Inc. via letter of its denial of the claim. Tyson Foods, Inc. was further notified of the right to file suit within six (6) months from the date of the mailing of the denial letter.

### **FACTUAL BACKGROUND**

7. Under the Federal Meat Inspection Act, the USDA is responsible for ensuring the healthiness of livestock (including pork) entering the United States food supply.

8. One aspect of USDA fulfilling this responsibility is to conduct, through FSIS, certain ante and post-mortem inspections on hogs at pork processing facilities. *See* 9 CFR 309, Animals

and Animal Products, Chapter III – Food Safety and Inspection Service, Department of Agriculture.

9. The USDA trains and supervises FSIS inspectors as to the manner and methods of conducting ante and post-mortem inspections.

10. The USDA then places trained FSIS inspectors at each pork processing facility in the United States to perform these inspections.

11. Tyson Fresh Meats, Inc. operates a pork processing facility located at 1009 Richland Drive, Storm Lake, Iowa (“Tyson Storm Lake”).

12. Tyson Storm Lake, like every pork processing facility in the United States, operates under continuous USDA-FSIS inspection while the processing facility is operating.

13. All hogs slaughtered at Tyson Storm Lake are subject to USDA-FSIS ante-mortem inspection.

**USDA-FSIS Inspections Control the Release or  
Condemnation of Hogs**

14. The FSIS employees on-site at Tyson Storm Lake are responsible for performing the ante-mortem inspections on hogs by visually observing the hogs and determining whether to release or condemn the hogs based on the inspection results.

15. The USDA-stated goal and purpose of ante-mortem inspection is to accept only those animals that are healthful, safe from harmful chemical and drug residues, and capable of being converted into safe wholesome products fit for the use and enjoyment of the consumer.

16. At the conclusion of any ante-mortem inspection, USDA-FSIS protocols dictate only three possible outcomes. FSIS determines that the hogs will either be (1) passed for slaughter, (2) classified as suspect, or (3) condemned. Condemned hogs are considered not fit for human consumption. Suspect hogs are those hogs which will require additional inspection in order to determine whether they are fit for human consumption.

17. FSIS is the sole entity responsible for conducting these inspections on behalf of USDA and designating whether hogs are fit to be slaughtered and enter the stream of commerce.

**USDA-FSIS Conducted Negligent Ante-Mortem Inspections on 4,622 Hogs**

18. On March 26, 2018, approximately 4,622 hogs were slaughtered at Tyson Storm Lake and were, thereby, subject to ante-mortem inspection by the USDA-FSIS.

19. On March 26, 2018, the ante-mortem inspections of the slaughtered hogs were the responsibility of FSIS inspector Dr. Yolanda Thompson, an employee and agent of the Defendant. On this date, Dr. Thompson presented to Tyson Storm Lake management signed inspection pen cards certifying that the hogs had been inspected and were eligible to bear the mark of inspection.

20. Unbeknownst to Tyson Storm Lake management, Dr. Thompson conducted negligent ante-mortem inspections of the hogs prior to slaughter. Video footage obtained later revealed that Dr. Thompson never entered the pre-slaughter holding area to perform an in-person visual inspection of the hogs as required to satisfy her duties as both (1) an employee and agent of the Defendant and (2) a reasonable person taking on the duty to conduct inspections for the protection of others. Instead, Dr. Thompson remained in her vehicle, signing the inspection cards without entering the holding area to examine the hogs.

21. Tyson Storm Lake management was unaware that Dr. Thompson was negligent in conducting the ante-mortem inspections until the following day, March 27, 2018, when they were informed by FSIS personnel that the hogs at issue had not received proper ante-mortem inspections.

**Tyson Suffered Damages As a Result of USDA-FSIS's Conduct**

22. Upon notification of Dr. Thompson's actions, Tyson Storm Lake management took steps to mitigate damages.

23. Unfortunately, by this time, the negligently inspected hog carcasses had been

intermingled into a larger group of approximately 8,000 hog carcasses and, consequently, the negligently inspected hog carcasses could no longer be positively identified.

24. On March 30, 2018, USDA, acting through supervisors of the Des Moines Field Office, concluded that it was not possible to clearly identify whether the animals were subject to any health conditions that would have necessitated condemnation of the negligently inspected carcasses. This left Tyson with no choice but to destroy the negligently inspected carcasses and those with which they had been commingled, salvaging portions of the product for non-food related purposes at a greatly reduced rate.

25. As a result of the required condemnation, Tyson incurred a loss of \$1,971,616.61, with only a portion of the loss (\$120,612.32) being offset by rendering some of the meat into non-edible products. This yielded a net loss to Tyson for the condemned pork of \$1,851,003.29.

26. Tyson incurred \$314,905.63 in cancelled sales primarily related to offal and lard that had been sold to third parties within the brief window of time between when the hogs were slaughtered and when Tyson was notified of the negligent inspection.

27. Tyson incurred \$50,070.85 in freight and temporary storage fees pending destruction of the product.

28. Tyson incurred \$51,468.25 related to overtime hours worked on an emergency basis to segregate, render, or otherwise destroy the product rendered useless by Defendant's negligence.

29. Tyson incurred \$213,513.04 due to reduction in normal processing activities while diverting resources to respond to the emergency created by the Defendant's negligence.

30. The USDA-FSIS inspector's negligence proximately caused \$2,480,961.07 in total damages to Tyson.

**USDA-FSIS Personnel Were Aware of Dr. Thompson's Performance Issues**

31. Upon information and belief, at all pertinent times, USDA-FSIS personnel were aware of deficiencies in the quality, scope and integrity of Dr. Thompson's inspection practices.

32. Upon information and belief, prior to the negligent inspections described above, USDA-FSIS personnel were aware of issues with Dr. Thompson's performance as indicated by a USDA-FSIS employee mentioning to Tyson employees during the investigation of the negligent inspections that Dr. Thompson had bad habits related to her inspection practices

33. Moreover, USDA-FSIS personnel were aware of Dr. Thompson's physical limitations and that she had difficulty walking. Dr. Thompson's normal inspection site was the turkey processing plant, a plant that is much smaller in size than the pork processing plant. In addition, the way in which the animals are kept in the pork processing plant requires an inspector to navigate the holding pens.

34. If the USDA and/or FSIS personnel adequately trained and supervised Dr. Thompson, or otherwise addressed Dr. Thompson's deficient inspection practices and her health issues, the damage to Tyson could have been avoided.

**COUNT ONE  
(Negligence)**

35. Tyson incorporates by reference paragraphs 1 through 34 as if fully set forth herein.

36. Under Iowa law, private parties are liable when they have a duty to conform to a standard to protect others and they fail to do so, resulting in damages to another.

37. Under the FTCA, the United States is liable to the same extent as a private party in Iowa. In this case, the United States, through its agents and employees, had a duty to conform to a standard of conduct to protect Tyson's property and failed to do so.

38. Dr. Thompson, the FSIS inspector and the agent and employee of Defendant, failed to act as a reasonable person when she negligently performed the ante-mortem inspections.

39. The duty to conduct a reasonable and competent inspection was an operational task and did not involve the United States exercising discretion.

40. The United States, through Dr. Thompson's actions, proximately caused damages to Tyson. The proximate result of Defendant's wrongful and tortious conduct was the destruction of approximately 8,000 hog carcasses. The monetary damages resulting from the Defendant's misconduct is \$2,480,961.07.

**COUNT TWO**  
**(Negligent Inspection)**

41. Tyson incorporates by reference paragraphs 1 through 34 as if fully set forth herein.

42. Under Iowa law, private parties are liable when they undertake a duty to inspect and then negligently carry out that duty.

43. Under the FTCA, the United States is liable to the same extent as a private party for negligently executing its undertaken duty to inspect.

44. The United States, through the USDA and FSIS, undertook a duty to inspect pork product at the Tyson Storm Lake processing plant by placing inspectors at the facility.

45. The United States undertook the duty to inspect the live hogs at issue in this case.

46. The United States' undertaking created a common law duty under Iowa law owed to Tyson to competently perform inspections.

47. The United States' undertaking supplanted Tyson's duty to conduct ante-mortem inspections to help ensure the safety of its pork products.

48. The USDA-FSIS inspectors, including Dr. Thompson, should have recognized that the services they undertook to perform were necessary for the protection of Tyson and others.

49. The duty to inspect was an operational task and did not involve the United States exercising discretion.

50. The United States' undertaking the duty to inspect caused Tyson to forego other inspection options or precautions against the risk of contamination.

51. Tyson relied upon the USDA-FSIS inspectors, including Dr. Thompson, to perform their duties non-negligently.

52. Tyson relied on Dr. Thompson and other USDA-FSIS inspectors, not plant employees, to conduct the ante-mortem inspections and make the critical determination as to the health of the hogs.

53. The USDA-FSIS inspectors who were assigned to Tyson Storm Lake, including Dr. Thompson, undertook to provide inspection services of Tyson's pork products and should have reasonably foreseen that negligent performance of their inspection duties would result in injury to persons or property.

54. The United States breached the duty to inspect by negligently conducting ante-mortem inspections on approximately 4,622 hogs on March 26, 2018.

55. The United States' acts constituted negligence in the performance of an operational task for which they had no discretion.

56. The United States' acts in negligently performing the inspections caused approximated 4,622 hogs to be commingled and intermingled into a larger group of approximately 8,000 hog carcasses, resulting in the destruction of approximately 8,000 hog carcasses.

57. Tyson suffered property damages as a result of the United States' negligence.

**COUNT THREE**  
**(Negligent Retention)**

58. Tyson incorporates by reference paragraphs 1 through 34 as if fully set forth herein.



59. Under Iowa law, private parties are liable when they knew, or in the exercise of ordinary care should have known, of an employee's unfitness at the time the employee engaged in wrongful or tortious conduct.

60. Under the FTCA, the United States is liable to the same extent as a private party under Iowa law for knowingly allowing an unfit employee to engage in wrongful or tortious conduct.

61. The United States, through negligent retention of the inspector, Dr. Thompson, proximately caused injuries to Tyson.

62. Dr. Thompson, as an FSIS inspector, was an employee of the United States through USDA.

63. Dr. Thompson committed an underlying tort that caused compensable injury to Tyson through her negligence and negligent ante-mortem inspections.

64. Upon information and belief, prior to the time Dr. Thompson conducted the negligent ante-mortem inspections, other USDA and/or FSIS employees and inspectors were aware of deficiencies in the quality, scope, and integrity of Dr. Thompson's inspection practices.

65. The United States should have recognized Dr. Thompson's unfitness to perform the inspections that were necessary for the protection of Tyson's property. However, the United States failed to so recognize, resulting in the destruction of approximately 8,000 hog carcasses, causing injury to Tyson.

66. The duty to (1) provide inspectors who are competent and able to perform inspections as required or (2) remove and replace inspectors who are either incompetent or unable to perform inspections as required was an operational task and did not involve the United States exercising discretion.

**COUNT FOUR**  
**(Negligent Supervision)**

67. Tyson incorporates by reference paragraphs 1 through 34 as if fully set forth herein.

68. Under Iowa law, private parties are liable when they know, or in the exercise of ordinary care should have known, of an employee's unfitness at the time the employee engaged in wrongful or tortious conduct.

69. Under the FTCA, the United States is liable to the same extent as a private party under Iowa law because it should have known that Dr. Thompson was an unfit employee at the time she conducted the negligent ante-mortem inspections.

70. The United States, through negligent supervision of the inspector, Dr. Thompson, proximately caused injuries to Tyson because of Dr. Thompson's incompetence and lack of fitness for her position.

71. Dr. Thompson, as an FSIS inspector, was an employee of the United States through its agency, the USDA.

72. Prior to the time that Dr. Thompson conducted the negligent inspection, other USDA and/or FSIS employees and inspectors were aware of deficiencies in the quality, scope and integrity of Dr. Thompson's inspection practices.

73. It is also believed that other USDA and/or FSIS inspectors were aware of Dr. Thompson's mobility and performance issues. The United States should have addressed Dr. Thompson's mobility and performance issues before assigning Dr. Thompson to the pork processing plant, which is larger and requires more mobility.

74. The duty to competently and reasonably supervise employees was an operational task and did not involve the United States exercising discretion.

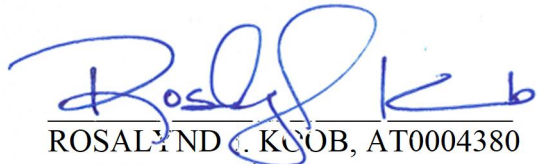
75. The United States' failure to address Dr. Thompson's mobility and performance issues caused Tyson to suffer damages.

WHEREFORE, Tyson prays as follows:

- a. That this Court award incidental and consequential damages arising from the United States' negligence in an amount no less than \$2,480,961.07;
- b. That this Court award any and all relief provided for under 28 U.S.C. § 1346(b) and 28 U.S.C. § 2671 et seq.; and
- c. That this Court award such other relief as the Court deems just and appropriate under the circumstances.

Dated this 14th day of May, 2019.

HEIDMAN LAW FIRM, P.L.L.C.

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ATTORNEYS FOR TYSON FOODS, INC., AND  
TYSON FRESH MEATS, INC.

Original filed.

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

## DEFENDANTS

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

## FOR OFFICE USE ONLY

RECEIPT #

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# INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.